

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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| UNITED STATES OF AMERICA, <i>ex rel.</i> |) | |
| TEITELBAUM, |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| |) | |
| v. |) | Civil Action |
| |) | No. 04-12450-MEL |
| ALASKA AIRLINES, <i>et. al.</i>, |) | |
| |) | |
| Defendants. |) | |
| <hr/> |) | |

**MOTION TO DISMISS AND FOR ENTRY OF SEPARATE
AND FINAL JUDGMENT BY THE DEFENDANT, AIR JAMAICA**

Now comes the Defendant, Air Jamaica, and hereby moves, pursuant to Fed. R. Civ. P. 12 (b) (1) and Fed. R. Civ. P. 12 (b) (6), to dismiss plaintiff's Amended Complaint and to enter Separate and Final Judgment in favor of Air Jamaica, pursuant to Fed. R. Civ. P. 54 (b). As grounds for this motion, Air Jamaica states that: (1) the Amended Complaint fails to state a claim against Air Jamaica upon which relief can be granted, either pursuant to the False Claim Act, 31 U.S.C. §§3729, 3730, or at common law; (2) the Court lacks subject matter jurisdiction over this matter due to the False Claims Act's "public disclosure" bar, 31 U.S.C. §§3730(e)(4)(a); (3) the Amended Complaint fails to comply with the pleading requirements of Fed. R. Civ. P. 9(b); and (4) the Plaintiff-Relator lacks standing to bring the common law claims asserted in Counts V through IX. As allowance of the Motion to Dismiss will resolve all claims against Air

Jamaica in this action, there is no just reason to delay the entry of separate and final Judgment in favor of Air Jamaica, pursuant to Fed. R. Civ. P. 54 (b).

WHEREFOR, the Defendant, Air Jamaica, respectfully requests that the Court dismiss all claims against it in this action, with prejudice and with costs, and that it enter an order of Separate and Final Judgment in favor of Air Jamaica.

Respectfully submitted,
AIR JAMAICA
By its attorneys,

/s/ Joseph L. Doherty, Jr.
Joseph L. Doherty, Jr., BB0# 127280
Charles H. Riley III, BBO #630715
Doherty & Quill
225 Franklin Street, 26th Floor
Boston, Massachusetts, 02110
(617) 217-2837

Date: March 2, 2006

LOCAL RULE 7.1(A)(2) CERTIFICATION

I hereby certify that counsel for Air Jamaica conferred with counsel for the plaintiff in a good faith effort to resolve or narrow the issues in dispute but was unable to do so.

/s/ Joseph L. Doherty, Jr.
Joseph L. Doherty, Jr., BB0# 127280

CERTIFICATE OF SERVICE

I, Joseph L. Doherty, Jr., hereby certify that on March 2, 2006, this document was filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and that paper copies will be sent to any counsel of record indicated as being non-registered participants.

Dated: March 2, 2006

/s/ Joseph L. Doherty, Jr.
Joseph L. Doherty, Jr.